REMARKS

Introduction

Claims 1, 3-11 and 13-21 remain in the application, of which claims 1, 11 and 21 are in independent form. Claims 2, 12 and 22 have been canceled. Claims 1, 11 and 21 have been amended by this Amendment.

Objections to the Specification

The specification was objected to because of certain informalities. By this Amendment, the specification has been amended to address the informalities and thus applicant believes the objections to be obviated, and withdrawal of the objections is requested.

Rejections under 35 U.S.C. § 102(b)

Claims 1-3, 6, 11-13, 16 and 21-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by "Gauging Software Readiness with Defect Tracking," 1997 IEEE Software, pp. 135-136 (*McConnell*).

Amended claim 1 recites, *inter alia*, "[a] method for predicting the number of software defects for an upcoming software release ... wherein determining the relative size of the upcoming software release includes the steps of: determining the number of new test requirements for the upcoming software release; determining the number of test requirements for the baseline software release; and dividing the number of new test requirements for the upcoming software release by the number of test requirements for the baseline software release." As described in the specification of the present application as published (*see* US 2005/0071807 A1) at, for example, paragraph [0021], "In step 202, the number of new test requirements for a software release (TR_a) is input. In general, a test requirement can include any software feature that will be the subject of testing. The test requirements will generally have been determined

during the course of project planning." As further described, "the number of new functions to be implemented could be used as the number of test requirements for the upcoming software release. This value could be manually input, or obtained from the project management system, for example." *Id.*

Thus, *McConnell* describes a method of software defect tracking that relies upon "the number of defects per line of code." (*McConnell* at ¶ 1)(underline added). *McConnell* also describes measuring "defects per 1,000 lines of code (KLOC)." (*Id.* at ¶ 2)(underline added).

McConnell does not describe, teach, or provide motivation for all of the features recited by amended claim 1 of the present application. For example, *McConnell* does not describe "determining the number of new test requirements for the upcoming software release; determining the number of test requirements for the baseline software release; and dividing the number of new test requirements for the upcoming software release by the number of test requirements for the baseline software release." " In stark contrast, *McConnell* merely describes measuring defects per line of code or per 1,000 lines of code (KLOC). This method described by *McConnell* of measuring defects per line of code is very different than the claimed use of "test requirements," as recited by amended claim 1 of the present application.

Accordingly for at least this reason, applicant submits that amended claim 1 is allowable over *McConnell*.

Claims 11 and 21, while different in scope than claim 1, recite features similar to those discussed above with respect to claim 1. For example, claim 11 recites, *inter alia*, "wherein the information obtained by the input device includes the number of new test requirements for the upcoming software release and the number of test requirements for the baseline software release, and the processor determines the relative size of the upcoming software release by dividing the number of new test requirements for the upcoming software

release by the number of test requirements for the baseline software release" while claim 21 recites, *inter alia*, "wherein determining the relative size of the upcoming software release includes the steps of: determining the number of new test requirements for the upcoming software release; determining the number of test requirements for the baseline software release; and dividing the number of new test requirements for the upcoming software release by the number of test requirements for the baseline software release."

Accordingly, each of independent claims 11 and 21 are deemed to be allowable, at least for reasons discussed above with respect to the allowability of claim 1.

Each of claims 3, 6, 13, and 16 depend from one of claims 1 and 11, that have been discussed above, and are believed to be allowable, and further narrow and define those claims. Therefore, at least for these reasons, claims 3, 6, 13, and 16 are also believed to be allowable.

Rejections under 35 U.S.C. § 103(a)

Claims 4, 5, 7, 8, 14, 15, 17 and 18 stand rejected under *McConnell* in view of "An Analysis of Several Software Defect Models," IEEE Transactions on Software Engineering, vol. 14, no. 9, September 1988 (*Yu*).

As described above, *McConnell* does not describe, teach, or provide motivation for all of the features recited by claims 1 and 11.

Yu does not cure the deficiencies of *McConnell*.

Yu describes (and is cited in the office action for the purpose of describing) several software defect models that incorporate regression and re-factoring factors.

Yu, either alone, or in a hypothetical combination with *McConnell*, does not describe, teach, or provide motivation for a system or method "wherein determining the relative size of the upcoming software release includes the steps of: determining the number of new test

requirements for the upcoming software release; determining the number of test requirements for the baseline software release; and dividing the number of new test requirements for the upcoming software release by the number of test requirements for the baseline software release." as recited by claim 1, or "wherein the information obtained by the input device includes the number of new test requirements for the upcoming software release and the number of test requirements for the baseline software release, and the processor determines the relative size of the upcoming software release by dividing the number of new test requirements for the upcoming software release by the number of test requirements for the baseline software release" as recited by claim 11.

For at least these reasons, claims 1 and 11 are deemed to distinguish patentably over any hypothetical *McConnell-Yu* combination.

Each of claims 4, 5, 7, 8, 14, 15, 17 and 18 depend from one of claims 1 and 11, that have been discussed above, and are believed to be allowable, and further narrow and define those claims. Therefore, at least for these reasons, claims 4, 5, 7, 8, 14, 15, 17 and 18 are also believed to be allowable over any hypothetical *McConnell-Yu* combination.

Thus, applicants submit that each of the claims of the present application are patentable over each of the references of record, either taken alone, or in any proposed hypothetical combination. Accordingly, withdrawal of the rejections to the claims is respectfully requested.

Conclusion

In view of the above remarks, reconsideration and allowance of the present application is respectfully requested. If any additional fee is due, please charge the required fee to deposit account number 50-1358. Applicants' undersigned attorney may be reached by telephone at (973) 597-2500. All correspondence should be directed to our address listed below.

Respectfully submitted,

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